



U.S. Department of
Transportation

Office of the Secretary
of Transportation

ORDER

DOT 4600.17A

3-30-00

Subject: FINANCIAL ASSISTANCE MANAGEMENT REQUIREMENTS

1. PURPOSE. This Order updates DOT Order 4600.17, Grant Management Requirements, pertaining to the administration of financial assistance programs and prescribes the procedures for implementing laws, regulations, Executive Orders, and Office of Management and Budget (OMB) Circulars, providing guidance for the administration of DOT financial assistance programs.

For purposes of this Order, "financial assistance" means the forms of assistance that provide funds to eligible recipients, e.g., grants, cooperative agreements, and assistance-type other transactions. Although it does not include loans, loan guarantees, interest subsidies or insurance, this Order provides guidance that can be used to better manage these instruments.

A grant or cooperative agreement is the transfer of money, property, services, or anything of value to an eligible recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than the acquisition, by purchase, lease or barter, of property or services for the direct benefit of the Federal Government. A cooperative agreement differs from a grant in that, in the case of the former, substantial involvement is anticipated between the Federal Government and the recipient. An assistance-type "other transaction" is an instrument specifically created by Congress that is not a contract, grant or cooperative agreement, but is specifically designed to allow government entities, non-profit organizations and private industry to freely transfer funds, materials and technical assistance among themselves for the mutual benefit of all participants.

2. CANCELLATION. DOT Order 4600.17, Grant Management Requirements, is superseded. Deputy Secretary memorandums dated August 7, 1998, "Other Transactions Authority Under the Transportation Equity Act for the Twenty-First Century," and December 9, 1998, "Selection of Discretionary Grants," are cancelled.

DISTRIBUTION: All Secretarial Offices
All Operating Administrations
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OPI: Office of the
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3. BACKGROUND. Executive Order 12861 of September 12, 1993, required that all executive branch departments and agencies eliminate at least 50 percent of their internal regulations by September 11, 1996. In addition, several DOT Performance Review recommendations addressed the problem of a lack of centralized information for financial assistance program guidance. As a result, all financial assistance guidance was combined into one publication, DOT Order 4600.17, in 1995.

This Order revises requirements on audits, program announcements, indirect costs and lobbying and adds guidance for a new financial assistance instrument, "other transactions." New guidance on discretionary grant selection, based on the Deputy Secretary's memorandum of December 9, 1998, and the requirements of Section 1311 of TEA-21, Discretionary Grant Selection Criteria and Process, has been added.

4. POLICY. DOT policy is to comply with all instructions and standards as contained in Appendices A through I of this Order except where enabling legislation for a specific financial assistance program prescribes different policies or requirements, or where a specific exemption has been granted by OMB or the Assistant Secretary for Administration in accordance with paragraph 6 of this Order.
5. APPLICABILITY. The provisions of this Order and its Appendices apply to all operating administrations and secretarial offices that award Federal assistance to non-Federal entities, or provide policy guidance to departmental financial assistance managers.
6. RESPONSIBILITIES.
- a. The Assistant Secretary for Administration shall issue additional instructions as required for implementing the contents of this Order only in those instances where the prescribed requirements need further clarification and/or implementation.
 - b. Operating administrations and applicable secretarial offices shall establish any necessary implementing procedures to comply with this Order.

- c. Operating administrations and applicable secretarial offices shall submit all new and/or revised procedures which are designed to implement the requirements of this Order, or the directives this Order implements, to the Assistant Secretary for Administration for clearance before the procedures are issued. Procedures will be reviewed to determine compliance with the appropriate guidance.
 - d. When required, operating administrations and applicable secretarial offices shall request waivers to the requirements of this Order, or the directives this Order implements, from the Assistant Secretary for Administration. Waivers must be accompanied by sufficient information to justify an exemption.
7. IMPLEMENTATION. The policy and procedures contained in this Order and its Appendices are effective immediately. Implementing directives required by paragraph 6 shall be submitted within 90 days of the publication of this Order.

FOR THE SECRETARY OF TRANSPORTATION:



Melissa J. Allen
Melissa J. Allen
Assistant Secretary
for Administration

APPENDICESAPPENDIX A: USE OF CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

Implements Federal requirements on the use of grants, cooperative agreements and contracts, 31 U.S.C. §6301 et seq; OMB Circular A-102, Revised; OMB Circular A-110, Revised; and Section 1311 of the Transportation Equity Act of the Twenty-First Century, P.L. 105-178 (TEA-21).

APPENDIX B: ADMINISTRATIVE REQUIREMENTS FOR FINANCIAL ASSISTANCE PROGRAMS

Implements 49 CFR parts 18 and 19; OMB Circular A-102, Revised; OMB Circular A-110, Revised; and Executive Order 13101.

APPENDIX C: COST PRINCIPLES FOR FINANCIAL ASSISTANCE PROGRAMS

Implements 49 CFR parts 18 and 19; OMB Circular A-21, Revised; OMB Circular A-87, Revised; and OMB Circular A-122, Revised.

APPENDIX D: AUDITS OF FEDERAL ASSISTANCE RECIPIENTS

Implements 49 CFR parts 18 and 19; and OMB Circular A-133.

APPENDIX E: DEBARMENT AND SUSPENSION

Implements 49 CFR part 29.

APPENDIX F: INTERGOVERNMENTAL REVIEW OF PROGRAMS AND ACTIVITIES

Implements 49 CFR part 17; and Executive Order 12372.

APPENDIX G: DOT GRANT MANAGEMENT COUNCILAPPENDIX H: ADDITIONAL REPORTING REQUIREMENTS

Implements 31 U.S.C. §6102(a) - Grant Information System; 31 U.S.C. §6104 - Catalog of Federal Domestic Assistance; 49 CFR part 20 - New Restrictions on Lobbying.

APPENDIX I: ADMINISTRATIVE REQUIREMENTS FOR OTHER TRANSACTIONS

Implements Sections 3015, 5102, and 5111 OF TEA-21.

USE OF CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

1. PURPOSE. This Appendix provides departmental guidance for implementing Federal statutes, codified at 31 U.S.C. §§ 6301 et seq., establishing requirements on the use of grants, cooperative agreements and contracts.
2. BACKGROUND. Section 6301 of 31 U.S.C. provides standards that agencies are required to use in selecting among contracts, grants or cooperative agreements. The intent is to prescribe uniform criteria to assist agencies in distinguishing differences between the legal instruments based on the Federal purpose in the relationship. It does not convey new authority to make assistance awards independent of agency program legislation.

A contract is used when the principal purpose of a transaction is to acquire property and services for direct DOT use. A grant or a cooperative agreement is used when the principal purpose is to transfer funds or resources to assist recipients in acquiring property or services to carry out a public purpose of support or stimulation. Generally, grants are used where there is less specific Federal supervision and oversight of project activities. Cooperative agreements are used when there is substantial involvement by the granting agency in grant project activities.

Often, funds are provided for direct DOT use which are in turn provided to a third party. The choice of instruments in this type of transaction depends solely on the purpose of the transaction. If the intent is to acquire property or services to carry out a DOT program function, a contract is required. If the intent is to assist the recipient to carry out its functions, a grant or cooperative agreement is appropriate.

3. REQUIRED ACTIONS. Each operating administration or secretarial office that awards contracts, grants, or cooperative agreements shall:
 - a. Determine whether there exists substantive authority to award a grant or cooperative agreement. If such authority exists, determine whether the principal purpose of a transaction is to acquire property and services for direct DOT benefit or use, or to transfer funds to assist recipients in accomplishing public purposes.

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- b. Award and administer each of the legal instruments in accordance with the appropriate directives.
 - (1) Contracts will be awarded and administered in accordance with the provisions of the Federal Acquisition Regulation (FAR), the Transportation Acquisition Regulation (TAR), the Transportation Acquisition Manual (TAM), and other DOT directives covering contracting activities.
 - (2) Grants and cooperative agreements with units of State and local governments will be awarded and administered in accordance with OMB Circular A-102 and 49 CFR part 18.
 - (3) Grants and cooperative agreements with universities, hospitals, and other nonprofit organizations will be awarded and administered in accordance with OMB Circular A-110 and 49 CFR part 19.
 - (4) Grants and cooperative agreements with for-profit organizations will be awarded and administered in accordance with applicable program procedures. The use of 49 CFR part 19 is encouraged.
- c. Obtain the maximum competition practicable in awarding grants or cooperative agreements whenever discretion is permitted in selecting recipients.
 - (1) Grant program announcements must include, at a minimum, a Federal point of contact, information on eligibility requirements, application procedures, proposal evaluation criteria, special award selection factors (if any), and terms and conditions of the awards.
 - (2) The public must be provided with an advanced notice in the Federal Register, or other appropriate means, of intended funding priorities for all discretionary assistance programs or projects, unless funding priorities are established by statute. Whenever time permits, the public shall be provided an opportunity to comment on intended funding priorities.

- (3) Selection of all discretionary projects shall include an explanation of how the projects were selected based on the funding priorities established. Decisions not to fund projects with the highest priority shall be documented.
 - (4) All discretionary project selections must be reviewed by a policy official.
- d. Unless congressionally directed or when awards are made to State or local governments, when competition has not been sought, a justification shall be prepared. The justification shall include the basis for not competing the award and a rationale for selecting the grantee. Justifications must be approved by the operating administration's Administrator or Secretarial Officer or a designee. Suggested guidelines for levels of approval are contained in the FAR subpart 6.304 and the TAM subpart 1206.304.
- e. As required by Section 316 of the Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. § 266, new awards for research, development, test or evaluation must be based on merit-based selection procedures. This section provides that a provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal government entity unless that provision of law specifically refers to Section 316, identifies the specific entity involved, and states that the award is required by law in contravention of the policy set forth in Section 316.

ADMINISTRATIVE REQUIREMENTS FOR FINANCIAL ASSISTANCE PROGRAMS

1. PURPOSE. This Appendix provides departmental guidance for implementing OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, 49 CFR part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and 49 CFR part 19 (same title).
2. BACKGROUND. On March 12, 1987, the President directed all affected agencies to issue a common grants management rule to adopt Governmentwide terms and conditions for financial assistance to State and local governments. OMB Circular A-102 was revised in 1988 to provide additional guidance to Federal agencies. DOT issued its common rule on March 11, 1988, as 49 CFR part 18. The common grants management rule allows States to use their own procedures to manage their financial management, equipment, and procurement systems. OMB Circular A-102 was revised on October 14, 1994, to include updated direction on: (1) implementation of the metric system; (2) review of infrastructure investment; (3) implementation of the Resource Conservation and Recovery Act; and (4) public announcement of the amount of Federal funds used in certain contract awards.

Administrative requirements for management of grants to nonprofit organizations programs are contained in 49 CFR part 19, originally published as an interim final rule on April 4, 1994. The rule incorporates and reflects the provisions of OMB Circular A-110. The revised Circular was developed by an interagency task force for Governmentwide use in a common rule format to facilitate regulatory adoption by executive departments and agencies.

Part of these efforts included DOT obtaining required paperwork clearance for all standard forms and reporting requirements in 49 CFR parts 18 and 19. However, OMB approval must be obtained for any additional reporting requirements. Both rules permit deviations, but they must be based on statute or approved by either OMB (for class deviations) or the Office of the Secretary (for individual cases).

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be based on statute or approved by either OMB (for class deviations) or the Office of the Secretary (for individual cases).

3. REQUIRED ACTIONS.

- a. The Assistant Secretary for Administration shall issue additional specific instructions for implementing OMB Circulars A-102 and A-110, and 49 CFR parts 18 and 19 only in those instances where the prescribed requirements need further clarification and/or implementation.
- b. The operating administrations and secretarial offices shall:
 - (1) Establish additional instructions, if required, for implementing the above directives.
 - (2) If imposing additional requirements on "high risk" grantees, as authorized by 49 CFR 18.12, or 49 CFR 19.14, forward copies of such notifications to the Assistant Secretary for Administration and the Assistant Inspector General for Auditing.
 - (3) In addition to guidance provided in Section 2.(h) of OMB Circular A-102, and Section 16 of OMB Circular A-110, regarding resource conservation and recycling programs, implement the provisions of Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition.

COST PRINCIPLES FOR FINANCIAL ASSISTANCE PROGRAMS

1. PURPOSE. This Appendix provides departmental guidance for implementing Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, OMB Circular A-122, Cost Principles for Nonprofit Organizations, and OMB Circular A-21, Cost Principles for Educational Institutions.
2. BACKGROUND. The costs of Federal financial assistance performed by State or local governments are determined by the provisions of OMB Circular A-87. The Circular requires State and local governments to substantiate indirect costs through formal indirect cost proposals or cost allocation plans, and provides for the negotiation, approval and audit of those plans. OMB has assigned DOT as the cognizant Federal agency for all State highway agencies and other State transportation-related agencies.

The costs of Federal financial assistance performed or administered by nonprofit organizations are determined by the provisions of OMB Circular A-122. The Circular provides principles and policy guidance for recognizing costs incurred by nonprofit organizations, and lists methods for allocating indirect costs and computing indirect cost rates. The cognizant Federal agency negotiates and approves indirect cost rates. OMB Circular A-21 establishes principles for determining costs applicable to financial assistance to certain educational institutions. The Circular was revised in 1993 to include: (1) a limitation of a 24 percent fixed allowance for the administrative costs portion of indirect costs; (2) permission to use multi-year predetermined indirect cost rates for research agreements; and (3) a consistent policy for adjustment of indirect cost rates for proposals subsequently containing unallowable costs.

Cost principles for for-profit organizations are not covered by OMB Circulars. Operating administrations (OAs) and secretarial offices (SOs) are encouraged to utilize subpart 31.2 of the Federal Acquisition Regulation (FAR) to determine cost principles for these organizations.

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3. REQUIRED ACTIONS.

- a. The Assistant Secretary for Administration shall issue additional specific instructions for implementing OMB Circulars A-21, A-87, and A-122 only in those instances where the prescribed requirements need clarification.
- b. In those cases where DOT is the cognizant Federal agency, the Office of Inspector General shall perform or arrange for audits of recipients' indirect cost proposals or cost allocation plans as necessary. Audits are normally performed only where a significant problem exists in a grantee's financial system.
- c. The OAs and SOs shall:
 - (1) Establish additional instructions, if required, for implementing the above directives.
 - (2) If assigned cognizant responsibility, review and approve indirect cost rates and cost allocation plans in accordance with OMB Circulars A-87, A-21, and A-122. The cognizant OA or SO shall also request required audits and prepare the negotiation agreement. To meet the distribution requirements of the OMB circulars, electronic copies of agreements shall be forwarded to the Office of the Senior Procurement Executive (M-60). The Office of Senior Procurement Executive will forward them to the Department of Health and Human Services for inclusion in its information system, to be made available to Federal agencies.
 - (3) Accept indirect cost rate and cost allocation plan agreements negotiated and approved by the Federal cognizant agency or by the OA or SO within DOT having cognizant administrative responsibility.
 - (4) Provide technical assistance to recipients in cases where they need help in determining appropriate subrecipient costs and indirect cost rates. The cognizant OA or SO shall review the recipient's procedures for determining the subrecipient's indirect cost rate, recommend changes as required, and certify the rate so that it can be relied upon

by all agencies providing funds to the subrecipient. Documents setting forth the approved rates for subrecipients, and the approvals of these rates shall be forwarded electronically to the Office of the Senior Procurement Executive.

- (5) Use the cost principles established by subpart 31.2 of the FAR when administering financial assistance programs for for-profit organizations, unless justification is provided for establishing another basis for costs.
- (6) When preparing cost estimates for major projects (projects in excess of \$1 billion), include all eligible project costs, including interest on grant anticipation notes (GANs) that are funded with Federal dollars. Interest costs associated with the project not paid with Federal funds, e.g., GAN interest paid entirely with local funds or revenue bond interest must be noted in project financial plans, but would not be considered as part of project cost estimates.

AUDITS OF FEDERAL ASSISTANCE RECIPIENTS

1. PURPOSE. This Appendix provides departmental guidance for implementing Office of Management and Budget (OMB) Circular A-133, Audits of Institutions of States and Local Governments, and Non-Profit Organizations. It also provides guidance for determining audit coverage for other types of assistance recipients.
2. BACKGROUND. The Single Audit Act Amendments of 1996, 31 U.S.C. §§7501-7507, established audit requirements for recipients of Federal financial assistance, and is implemented by OMB Circular A-133. The requirements for audit coverage for recipients not covered under OMB Circular A-133 are included in this Appendix.

OMB has prepared compliance supplements for audits of major programs covered by OMB Circular A-133. Auditors are encouraged to use them when conducting single audits.

3. REQUIRED ACTIONS.

- a. General: Each operating administration (OA) and secretarial office (SO) shall require recipients to have audits conducted in compliance with the provisions of OMB Circular A-133. OAs and SOs are also responsible for ensuring appropriate audit coverage for other types of assistance recipients not covered by these Circulars. Where DOT has been designated to serve as the cognizant agency, the responsibilities shall be divided between the OAs and SOs, and the Office of Inspector General (OIG).

Recipients that expend \$300,000 or more in any year in Federal funds shall have a single audit conducted in accordance with OMB Circular A-133. When the OAs, SOs or the OIG determine that additional audits are necessary, such audits shall build on the results of independent auditors if the audits meet the criteria contained in OMB Circular A-133. Recipients that expend less than \$300,000 a year in Federal assistance funds are exempt from single audit requirements; however, they must retain appropriate records to document their compliance with the requirements of their Federal assistance awards.

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When a single audit is not required, the following can be used to determine recipient compliance with Federal requirements:

- (1) Recipient obtained audits made in accordance with "Government Auditing Standards" (GAS) issued by GAO.
- (2) Previous audits of recipient operations.
- (3) Desk reviews by Federal program officials of project documentation.
- (4) Federal/non-Federal audits obtained by recipients.
- (5) Evaluation of recipient operations by Federal program officials.

b. The Assistant Secretary for Administration shall:

- (1) Issue any additional guidance as required.
- (2) Maintain an updated list, as provided by OMB, of cognizant agency assignments for single audits.
- (3) Assign cognizant administrative responsibility in instances where the OAs or SOs that provide funds are unable to make a determination as to who will carry out this responsibility.
- (4) Assign a person responsible for providing annual updates to the compliance supplement to OMB.

c. The OIG shall:

- (1) Provide technical advice and liaison to OAs, SOs, recipients, and independent auditors, as required.
- (2) Ensure that audits are made in accordance with OMB Circular A-133, and advise the recipient of audits that are deficient in meeting requirements. The OIG shall also notify the cognizant OA or SO of audits not meeting these requirements for follow-up action.

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- (3) Obtain or provide quality control reviews of selected audits made by non-Federal auditors to ensure that audits are performed in compliance with OMB Circular A-133, generally accepted auditing standards and "Government Auditing Standards." Results will be provided to the OA or SO whose program or activities are subject to audit by the entities. When appropriate, results should be provided to other interested organizations.
- (4) Inform other affected Federal organizations and appropriate Federal law enforcement officials (including State and local officials if necessary) of any reported illegal acts or irregularities.
- (5) Coordinate audit work performed by or for Federal/non-Federal organizations that are in addition to the audits required by OMB Circular A-133 so that additional audits build upon such audits to achieve the most efficient and cost effective results.
- (6) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audit.
- (7) Consider auditee requests to qualify as a low-risk audit.
- (8) Coordinate the management decisions for audit findings that affect the programs of more than one agency.

d. Each OA and SO shall:

- (1) Establish and maintain tracking mechanisms for recording receipt of audit reports requiring corrective actions and monitoring the status of these actions. Recipients shall be instructed to submit an appropriate number of copies of audit reports directly to the Bureau of Census Federal Audit Clearinghouse.

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- (2) Establish and enforce appropriate audit coverage for recipients not covered under OMB Circular A-133. Audit requirements for these recipients shall be established and performed for the program in a manner that ensures the Federal interest is adequately protected.
- e. Each OA and SO assigned cognizant administrative responsibility for a recipient shall:
- (1) Insure that audits are made and reports are distributed in a timely manner.
 - (2) Issue management decisions on audit findings within 6 months, and ensure that recipients take prompt corrective action. Copies shall be submitted to the OIG and other appropriate officials.
 - (3) Consider auditor requests for extensions of report submission due date, with the advice and assistance of the OIG.
 - (4) Negotiate with recipients to correct system deficiencies and resolve questioned costs for findings that affect two or more OAs/SOs. If agreed to by the cognizant agency and OAs/SOs, specific DOT-related deficiencies or questioned costs may be resolved by the affected OA/SO.

DEBARMENT AND SUSPENSION

1. PURPOSE. This Appendix provides departmental procedures for implementing debarment, suspension, and ineligibility procedures.
2. BACKGROUND. The debarment and suspension procedures are intended to prevent waste, fraud and abuse in Federal procurement and nonprocurement actions. Debarment or suspension of an organization or individual from doing business with the Federal Government is not meant to be a punishment, but a procedure to ensure that federally-funded business is conducted legally with responsible persons. Debarment and Suspension (Nonprocurement), 49 CFR part 29, provides rules for a Departmentwide system of debarment and suspension under nonprocurement transactions; the Federal Acquisition Regulation (FAR) part 9.4, Debarment, Suspension, and Ineligibility, provides rules for procurement actions. Both 49 CFR part 29 and the FAR provide for reciprocity between procurement and nonprocurement actions. The General Services Administration (GSA) maintains the list of parties that are debarred, suspended, or excluded from doing business with the government.
3. REQUIRED ACTIONS.
 - a. The Assistant Secretary for Administration shall notify the GSA, at least annually, of the DOT distribution requirements of the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.
 - b. DOT operating administrations and secretarial offices administering procurement and nonprocurement transactions shall:
 - (1) Encourage recipients to subscribe to and utilize the Monthly Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs published by GSA.
 - (2) Conduct debarment and suspension investigations in accordance with 49 CFR 29.311 and 29.410, and make the final determination.

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- (3) Forward to GSA the required suspension or debarment information in accordance with 49 CFR 29.505, and provide a copy to the Office of the Senior Procurement Executive.

INTERGOVERNMENTAL REVIEW OF PROGRAMS AND ACTIVITIES

1. PURPOSE. This Appendix gives guidance for implementing Executive Order 12372, as amended, Intergovernmental Review of Federal Programs, and 49 CFR part 17, Intergovernmental Review of Department of Transportation (DOT) Programs and Activities. Provisions of the Executive Order are based on Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, 42 U.S.C. §3334, and intergovernmental cooperation legislation codified at 31 U.S.C. §6506.
2. BACKGROUND. Issued on July 14, 1982, Executive Order 12372 provided a simplified system for coordination of Federal assistance programs by State and local government officials and Federal agencies. The Executive Order is implemented in the Department by 49 CFR part 17. Emphasis was placed on utilizing the States' review processes to the greatest extent possible. DOT publishes in the Federal Register a list of the departmental programs subject to the above Executive Order. States have the option of adopting a consolidated State process for review and administration of DOT assistance programs, or electing not to participate in the process. Participating States may select any or all of the DOT programs for incorporation into their process, and should notify DOT of their selections. States must designate a single agency to serve as the point of contact for this process. If no State process exists, operating administrations (OAs) and secretarial offices (SOs) are still required to meet other intergovernmental review requirements.
3. REQUIRED ACTIONS.
 - a. The Assistant Secretary for Administration shall:
 - (1) Obtain appropriate clearances and publish changes to the DOT list of programs and activities subject to 49 CFR part 17.
 - (2) Receive and distribute initial selections and subsequent changes by States of programs and activities to be covered by a State's process.

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b. Applicable OAs and SOs shall:

- (1) Incorporate provisions to implement the provisions of paragraphs 3b(2) through 3d into guidance material issued to actual and potential applicants.
- (2) Use a State's process as soon as feasible, but no more than 90 days, after a State notifies DOT of the process or changes to the process.

c. OAs and SOs providing assistance under programs covered by 49 CFR part 17 shall ensure that assistance projects are reviewed in accordance with that regulation. Applicants shall be instructed to follow the State process prior to submission of applications to OAs and SOs if required by the State process. In those cases where the OAs and SOs cannot accommodate State process recommendations or reach a mutually agreeable solution, they shall contact the State point of contact and explain the reason. An informational copy of the explanation shall be sent to the Assistant Secretary for Administration for central recordkeeping and the Assistant Secretary for Governmental Affairs for secretarial notification, if appropriate. The applicant may use the State process to obtain required environmental impact information pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §4332(2)(C).

d. OAs and SOs which administer programs requiring, by statute or regulation, a State plan as a condition of assistance shall advise recipients where to send State plans that simplify, consolidate or substitute federally required State plans. In those cases where the OA or SO cannot accept the State's plan, they shall notify the State of the steps necessary to bring the State's plan into compliance with Federal requirements. Copies of disapprovals of modified State plans shall be sent to the Assistant Secretary for Governmental Affairs.

DEPARTMENT OF TRANSPORTATION GRANT MANAGEMENT COUNCIL

1. PURPOSE. This Appendix gives direction for the administration of the DOT Grant Management Council (GMC).
2. BACKGROUND. The GMC was formally established February 21, 1992. The GMC was created to:
 - a. facilitate the coordination of the Department's grant programs and grant management activities;
 - b. promote the orderly, concerted, and aggressive development of sound and effective grant management throughout the Department;
 - c. facilitate cooperation and the exchange of information and ideas between the operating administrations (OAs) and applicable secretarial offices (SOs) in grant administrative areas of mutual interest and concern;
 - d. provide a means to ensure that the requirements and interests of each OA and SO are reflected in departmental grant management policies and programs;
 - e. communicate grant management program objectives which are to be given special emphasis throughout the Department;
 - f. provide advice concerning the development and improvement of the grant management work force; and,
 - g. serve as an advisory body to the Assistant Secretary for Administration in matters dealing with grant regulations, policy, and management.

Membership of the GMC consists of a minimum of one representative from the Office of Inspector General, Office of the General Counsel, and the Departmental Office of Civil Rights, a senior grant representative from each OA and applicable SO, and representatives from the Office of Small and Disadvantaged Business Utilization, and the Office of the Senior Procurement Executive. Attendance of other DOT grant program personnel is encouraged. The Senior Procurement Executive, or his/her designee, serves as the Chairperson.

The GMC meets quarterly or at other times as designated by the Chairperson.

3. REQUIRED ACTIONS.

a. The Chairperson of the GMC shall:

- (1) provide advance notification of GMC meetings and prepare agenda topics and materials;
- (2) provide adequate staff resources and support to the Council, its committees, and projects;
- (3) provide a recording secretary for all GMC meetings and furnish minutes to all Council members and meeting attendees; and,
- (4) report to the Assistant Secretary for Administration, as necessary, on the actions and recommendations of the Council.

b. Council members or their alternates are expected to attend all scheduled meetings. Members are encouraged to submit agenda items or topics.

ADDITIONAL REPORTING REQUIREMENTS

1. PURPOSE. This Appendix gives guidance for:
 - a. Reporting DOT Federal financial assistance awards as required by 31 U.S.C. §6102(a);
 - b. Maintaining records of Federal assistance programs and reporting on these programs to the Office of Management and Budget (OMB) and the General Services Administration (GSA) for inclusion in the Catalog of Federal Domestic Assistance (CFDA) in accordance with 31 U.S.C. §6104; and
 - c. Maintaining records of lobbying disclosures of recipients of Federal-aid.
2. BACKGROUND. The DOT Grant Information System (GIS) is a comprehensive information system that answers questions about assistance awards, provides periodic reports on various aspects of assistance programs, and provides periodic reporting to the Federal Assistance Awards Data System (FAADS) as required by 31 U.S.C. §6102(a). Except for awards to other Federal agencies or interagency agreements, all departmental financial assistance awards shall be reported to the GIS. Information on contracts awarded under the Federal Acquisition Regulation are not included in the GIS, but are reported to the Contract Information System. Reporting is done by a variety of means, such as manually prepared data entry forms, computer disks or tapes, or a PC-based data entry system. The GIS is designed to accommodate FAADS and the various operating administration (OA) and secretarial office (SO) information systems as much as practicable.

The CFDA is a comprehensive listing of all Federal assistance programs, and provides information on program history, eligibility requirements, funding levels, application procedures, and Federal program points of contact. Executive departments and agencies are required to periodically provide updated information on existing and new programs in accordance with Public Law 98-169. The Office of the Senior Procurement Executive coordinates the submission of departmental information to the General

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Services Administration, maintains required records, and provides guidance on reporting procedures as required.

Part 20 of 49 CFR prohibits the use of federally appropriated funds in connection with lobbying activities related to the award of a Federal contract, grant or loan.

Part 20 also requires contractors and recipients of Federal assistance to disclose whether any funds other than federally appropriated funds have been used in connection with lobbying activities.

3. REQUIRED ACTIONS: GRANT INFORMATION SYSTEM

a. The Assistant Secretary for Administration shall:

- (1) Be responsible for the operation of the GIS, including responding to requests for information and submitting data to FAADS.
- (2) Develop, maintain, and revise as required, all reporting information, including but not limited to: Record Layout and General Data Descriptions; DOT F 1340.7B (04-97), DOT Grant Information System Form (see Appendix H, Page 4); and DOT Grant Information System Reporting Instructions.
- (3) Edit information submitted to the GIS, identify problem areas, and contact the submitting organization directly to resolve the problems.

b. The OAs and SOs shall:

- (1) Advise the Office of the Senior Procurement Executive of new assistance programs and make arrangements to have data submitted to the system.
- (2) Report all obligations of Federal assistance awards to the GIS by the 15th of the month following the end of each quarter. Reports shall contain obligation information for the previous quarter and any other awards not previously reported. Data shall be submitted on magnetic tape, computer disk or diskette, on DOT F 1340.7B (Appendix H, Page 4),

or via a PC-based direct data entry system. The Office of the Senior Procurement Executive will provide required input forms and documentation requirements. Except when data is provided to the GIS by automated systems, a copy of the completed DOT F 1340.7B shall be included in the project file for all DOT assistance awards.

4. REQUIRED ACTIONS: CATALOG OF FEDERAL DOMESTIC ASSISTANCE

a. The Assistant Secretary for Administration shall:

- (1) Be responsible for DOT submission of CFDA information in accordance with OMB and GSA directives and guidance, and provide OAs and SOs with required submission guidance. Review and edit submissions, and provide a consolidated DOT input to OMB and GSA as required.
- (2) Develop, distribute, maintain, and revise, as needed, all reporting information and materials, including reporting forms, pre-formatted diskettes, and edit checklists.

b. The OAs and SOs shall:

- (1) Provide the Office of the Senior Procurement Executive with a point of contact responsible for reporting CFDA data.
- (2) Advise the Office of the Senior Procurement Executive of new assistance programs and provide information on the programs as required.
- (3) Provide periodic information updates to the Office of the Senior Procurement Executive upon request. Content and format of submissions will be provided by that office.

5. REQUIRED ACTIONS: REPORTS OF LOBBYING ACTIVITIES

The OAs and SOs shall ensure copies of all lobbying disclosure forms submitted to them are retained in the project files.

DOT Grant Information System Input Form

1 Administration		2 Federal Identifier Number																3 Number Changes	4 Multiple Location Code	5 Kind of Action				6 OMB/CFDA Number																
1	A=FAA B=BTS G=USCG H=FWHA M=MARAD O=OST P=PSPA R=FRA S=NHTSA T=FTA	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	A=New Award B=Mod Increase C=Correction D=Deletion R=Mod Decrease	22	23	24	25														
7 Recipient Type																8 Type of Instrument				9 Purpose																				
26	A=Ed. Inst. (Public) B=School Dist. C=Federal Agency D=State Agency E=Multi State Group F=County Agency G=Multi County Grp. H=Borough I=Planning Comm. J=Council of Govt. K=Port Authority L=Airport Authority M=City N=Other Nonprofit O=Large Business P=Small Business Q=Indian Tribe S=Sponsored Org. T=Transit Authority U=Other Govt. Org. V=For Profit Org. W=Individual Y=Ed. Inst. (Private)	27	1=Grant 2=Coop. Agree. 3=Direct Loan 4=Guar/Ins Loan 5=Insurance 6=Other	28	1=Construction 2=Equipment 3=Planning 4=R&D or Demo 5=Training 6=Other 7=Operating Assist 8=Safety																																			
10 Recipient Name																11 State Application Identifier Number																								
29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69
12 Business Location																13 Performance Location										14 Business Location Zip Code														
State		County		City		C.D.		Region		State		County		City		C.D.		MSA																						
70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106				
15 Award Date				16 Federal Award Amount (Right Justify--Whole Dollars)								17 Non-Federal Amount (Right Justify--Whole Dollars)								18 Estimated Completion Date				19 Funding Type																
Year Month Day				112 113 114 115 116 117 118 119 120 121 122								123 124 125 126 127 128 129 130 131 132								133 134 135 136 137 138				139																
107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139								
																								C = Cong. Mandate D = Discretionary F = Formula/Entitle M = Mixed Funding																
20 Project Description																																								
140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	
21 Special Narrative																																								
180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	
22 Other Performance Counties (Optional)																23 Other Congressional Districts (Optional)										24 Reserved														
County 2		County 3		County 4		County 5		County 6		C.D. 2		C.D. 3		C.D. 4		C.D. 5		C.D. 6																						
220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255					

Person to Contact Regarding this form:

Telephone Number:

* Business City/County Name:

* Performance City/County Name:

* Complete this information if GSA location code is not known.

ADMINISTRATIVE REQUIREMENTS FOR OTHER TRANSACTIONS

1. PURPOSE. This Appendix provides departmental guidance for implementing Sections 3015, 5102 and 5111 of the Transportation Equity Act for the Twenty-First Century (TEA-21) related to the use of other transactions. Other transactions are financial assistance or alternative procurement instruments specifically authorized by Congress that are not contracts, grants or cooperative agreements. They are designed to allow government and educational entities, non-profit organizations and private industry to freely transfer funds, materials and technical assistance among themselves for the mutual benefit of all participants. Programs with other transaction authority are not required to use most financial assistance provisions or Federal Acquisition Regulation clauses, but are free to negotiate provisions that are mutually acceptable to all affected parties.

2. BACKGROUND. Section 251 of Public Law 101-189 gave the Defense Advanced Research Projects Agency (DARPA) the first other transaction authority in 1989. This allowed DARPA to contract for research and development, unconstrained by most of the regulations governing contracts, grants and cooperative agreements. The research and development authority was expanded to all Defense departments in 1992. Congress subsequently expanded DARPA's authority to include development and production of prototypes in 1997. Section 226 of Public Law 104-264 gave the Federal Aviation Administration (FAA) authority to use other transactions, which has been utilized primarily for procurements. Public Law 101-611 gave the National Aeronautics and Space Administration (NASA) unlimited authority to utilize other transactions. Section 308 of Public Law 104-50 gave DOT the authority to enter into grants, cooperative agreements, and other transactions with any entity in execution of the Technology Reinvention Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation. This authority has been repeated in every subsequent DOT appropriations act.

3-30-00

There are two primary types of other transactions: those used for research and those used for prototypes. Other transactions for research are used to support research projects and assistance-type efforts where the goal is to stimulate development and commercialization of new technology. Other transactions for prototypes are used to develop and procure prototypes of systems, which will be owned by the government for its direct use. In addition, FAA uses other transactions for acquisition and construction of airport and related facilities which are funded and utilized by two or more separate entities. This distinction is necessitated by the different laws and procedures that applied to "procurement" and "grant" related type actions.

TEA-21 authorized the Department's use of the assistance-type other transactions for support of consortia doing research in support of mass transportation (Section 3015) and general surface transportation research (Section 5102). Section 5111 authorized the use of "other agreements" to promote research, development and deployment of transportation technologies related to the Advanced Vehicle Technologies Program. The term, "other agreement" is considered as an "other transaction" for Department program purposes. Authority for the use of other transactions for these three programs are codified at 49 U.S.C. §5312(d), 23 U.S.C. §502, and 49 U.S.C. §5506, respectively.

3. REQUIRED ACTIONS

- a. The Assistant Secretary for Administration shall issue additional guidance for implementing Sections 3015, 5102 and 5111 of TEA-21, and other authorities to enter into other transactions as applicable, only in those instances where prescribed requirements need further clarification.
- b. Each OA and SO with other transaction authority shall:
 - (1) Develop program-specific guidance to ensure adequate management of other transactions, including:

- (a) Documenting the justification for selection of an "other transaction" agreement.
 - (b) Preparing a justification, whenever competition is not the basis for selection of the award. In this case, competition does not require a formal selection process, but some type of competitive procedure must be used.
 - (c) Including provisions in the other transaction agreement which provide for sufficient government program oversight to ensure proper expenditure of public funds.
 - (d) Consulting legal counsel. The use of an other transaction does not automatically eliminate the applicability of all procurement or financial assistance laws and regulations. (For example, 49 CFR part 29, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace Grants) may still apply to assistance type other transactions.)
- (2) Designate an agreements officer who has authority to approve other transaction agreements, and act as the focal point for amendments or modifications to the agreements. Ensure that the person who executes such agreements has authority to obligate funds on behalf of the government.
 - (3) Report obligations made through these agreements to the Grant Information System and coded as an "other" type of instrument. (See Appendix H.)

